

Alan Ruddy, Esq., Assistant County Counsel  
Attorney ID#002411975  
Office of the Essex County Counsel  
Hall of Records, Room 535, 465 Dr. Martin Luther King, Jr., Blvd., Newark, NJ 07102  
(973) 621-5021  
(Attorney for Defendant, County of Essex, also improperly pled as Essex County  
Department of Corrections, Essex County Adult Corrections Center, Essex County Adult  
Corrections Center Director Al Ortiz, Sgt. John Lopez, improperly plead as Sheriff's  
Officer Lopez)

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
(NEWARK)**

Civil Action No.  
Removed from:

: SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION: ESSEX COUNTY  
: DOCKET NO. ESX-L-6295-21

MOISES ECHEVARRIA,

Plaintiff,

vs.

Civil Action

**NOTICE OF REMOVAL**

COUNTY OF ESSEX, ESSEX COUNTY:  
DEPARTMENT OF CORRECTIONS;  
ESSEX COUNTY ADULT  
CORRECTIONS CENTER; ESSEX  
COUNTY ADULT CORRECTION  
CENTER DIRECTOR AL ORTIZ; NEW  
JERSEY DEPARTMENT OF  
CORRECTIONS; SHERIFF'S OFFICER  
LOPEZ; ABC SHERIFF'S OFFICERS  
(fictitious defendants); DEF COUNTY  
GUARDS (fictitious defendants); GHI  
PUBLIC ENTITIES 1-5 (fictitious  
Defendants); JKL PRIVATE ENTITIES  
1-5, (fictitious defendants) and JOHN/  
JANE DOES 1-10 (fictitious defendants),

Defendants.

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To: Clerk of the United States District Court  
District of New Jersey  
Martin Luther King Jr. Courthouse  
50 Walnut Street  
Newark, NJ 07101

On Notice to: Clerk, Essex County Superior Court  
Civil Action Division  
Veterans Courthouse – Room 131  
Newark, NJ 07102

John H. Sanders, Esq.  
655 Shrewsbury Avenue, Suite 314  
Shrewsbury, NJ 07702  
(Attorney for Plaintiff)

SIR/MADAM:

**PLEASE TAKE NOTICE** in accordance with 28 U.S.C. §§ 1441-1451, defendant, County of Essex, improperly pled as Essex County Correctional Facility and Essex County Department of Corrections, hereby gives notice that they have removed the above-entitled case from the Superior Court of New Jersey, Essex County, to the United States District Court for the District of New Jersey. In support of this notice, defendant states the following:

1. The within matter was commenced by John H. Sanders, Esq., in the Superior Court of New Jersey, Essex County, Docket No.ESX-L-0295-21. The County of Essex was served on August 27, 2021.

2. The United States District Court has original jurisdiction of the above-captioned civil action pursuant to 28 U.S.C. §§ 1331 because the cause of action brought by plaintiff involve a federal question.

3. True copies of the Summons and Complaint, which comprise all pleadings and orders served upon the above defendants in this action, are attached hereto as **Exhibit A**.

4. This removal is timely under 28 U.S.C. § 144(b) in that it was filed within Thirty (30) days of defendant's acceptance of the complaint.

5. Defendant seeks removal of the within matter pursuant to 28 U.S.C. § 1441 because the Complaint alleges causes of action under federal law and/or the United States Constitution. **(See Exhibit A)**

6. No previous petition or notice has been made for the relief sought herein.

7. A Notice of Filing Petition will be filed with the Clerk of the Superior Court of New Jersey in Trenton and the Clerk of the Superior Court of New Jersey in Essex County. Additionally, a copy of both Notices will be served upon plaintiff.

8. At the time of filing, no other defendant has filed an Answer to plaintiffs' Complaint.

**WHEREFORE**, defendants, County of Essex, et al., gives notice that the above matter is removed to the United States District Court for the District of New Jersey from the Superior of New Jersey, Law Division, Essex County.

Courtney M. Gaccione  
Essex County Counsel  
(Attorney for defendants,  
County of Essex)

s/Alan Ruddy  
Alan Ruddy, Esq.  
Assistant County Counsel

Dated: September 1, 2021

## **EXHIBIT A**

2021C0132/HAR

RECEIVED

SHEBELL & SHEBELL, LLC  
John H. Sanders, Esq. (Bar ID036932001)  
655 Shrewsbury Avenue, Suite 314  
Shrewsbury, New Jersey 07702  
(T) (732) 663-1122 (F) (732) 663-1144  
Attorneys for Plaintiff(s)  
Our File No.: 50632 (JHS\*Imp)

2021 AUG 23 AM 11: 21

ESSEX COUNTY  
COUNSEL'S OFFICE

MOISES ECHEVARRIA,  
Plaintiff,

v.

COUNTY OF ESSEX; ESSEX COUNTY  
DEPARTMENT OF CORRECTIONS;  
ESSEX COUNTY ADULT  
CORRECTIONS CENTER; ESSEX  
COUNTY ADULT CORRECTION  
CENTER DIRECTOR AL ORTIZ; NEW  
JERSEY DEPARTMENT OF  
CORRECTIONS; SHERRIFF'S OFFICER  
LOPEZ; ABC SHERIFF'S OFFICERS  
(fictitious defendants); DEF COUNTY  
GUARDS (fictitious defendants); GHI  
PUBLIC ENTITIES 1-5, (fictitious  
defendants); JKL PRIVATE ENTITIES 1-5,  
(fictitious defendants) and JOHN/JANE  
DOES 1-10 (fictitious defendants),

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
ESSEX COUNTY  
DOCKET NO.: ESX-L-6295-21

Civil Action

**S U M M O N S**

**FROM THE STATE OF NEW JERSEY, TO THE DEFENDANT(S) NAMED ABOVE:**

**ESSEX COUNTY DEPARTMENT OF CORRECTIONS**

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the Complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, PO Box 971 [CN-971], Trenton, NJ 08625-0971. A filing fee payable to the Clerk of the Superior Court and a completed Case Information

Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 [\$175.00 for Law Division and \$105.00 for Chancery Division] and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within **35 days**, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

/SS/  
**MICHELLE M. SMITH, Clerk, Superior Court**

Dated: August 18, 2021  
Defendant to be Served: Essex County Adult Corrections Center  
Address for Service: 354 Doremus Avenue  
Newark, NJ 07105

Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 [\$175.00 for Law Division and \$105.00 for Chancery Division] and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within **35 days**, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

\_\_\_\_\_  
/SS/  
MICHELLE M. SMITH, Clerk, Superior Court

Dated: August 18, 2021  
Defendant to be Served: Essex County Department of Corrections  
Address for Service: 354 Doremus Avenue  
Newark, NJ 07105

**FIRST COUNT**

1. Defendant, County of Essex, ("County") is a political subdivision of the State of New Jersey formed pursuant to the laws of the State of New Jersey.

2. Defendant, Essex County Department of Corrections ("EDOC") is a subdivision of the County of Essex which exists under the authority of the County of Essex. The Department of Corrections oversees the functions of the Essex County Adult Correctional Facility. It is responsible for the policies, practices and functions of County Corrections.

3. Defendant, Essex County Adult Correctional Facility ("ECCF") is a subdivision of the Essex County Department of Corrections.

4. Defendant, Al Ortiz ("Ortiz") is the Director of the Essex County Department of Corrections. In that capacity, he is responsible for the creation and implementation of policies, practices and functions of the Essex County Department of Corrections and the Essex County Correctional Facility.

5. Defendant, Officer Lopez was at all times relevant acting under color of state law as a correction officer at the Essex County Correctional Facility in such capacity as the agent, servant and employee of Defendant County of Essex, EDOC, ECCF and Ortiz and who caused, and/or aided and abetted violations of the Plaintiff's



rights including the failure to accommodate his disability and disabling conditions.

6. Defendants, ABC Sherriff's Officers (fictitious defendants) were at all times acting under color of state law as corrections officers at the Essex County Correctional Facility in such capacity as the agent, servant and employee of Defendant County of Essex, EDOC, ECCF and Ortiz, for persons unknown at this time but will be substituted when known as associated, affiliated or liable hereunder for the reasons set forth below or inferred therefrom, supervisors, employees, managers, agents, assigns and heirs of the County of Essex, or other individuals unnamed who participated in any decisions concerning the failure to provide timely and adequate medical assistance to the Plaintiff or failure to accommodate the Plaintiff's disabilities or disabling conditions.

7. Defendants, DEF County Guards (fictitious defendants) were at all times acting under color of state law as corrections officers at the Essex County Correctional Facility in such capacity as the agent, servant and employee of Defendant County of Essex, EDOC, ECCF and Ortiz , for persons unknown at this time but will be substituted when known as associated, affiliated or liable hereunder for the reasons set forth below or inferred therefrom, supervisors, employees, managers, agents, assigns and heirs of the County of Essex, or other individuals unnamed who participated in any decisions concerning the failure to provide timely and adequate medical assistance to the Plaintiff or

failure to accommodate the Plaintiff's disabilities or disabling conditions.

8. JOHN/JANE DOES 1-10 (fictitious defendants), persons who worked at or for Essex County Correctional Facility in any capacity as the agent, servant and employee of Defendant County of Essex, EDOC, ECCF and Ortiz , for persons unknown at this time but will be substituted when known as associated, affiliated or liable hereunder for the reasons set forth below or inferred therefrom, as supervisors, employees, managers, agents, assigns and heirs of the County of Essex, or other individuals unnamed who participated in, or aided and abetted any decisions concerning the failure to provide timely and adequate medical assistance to the Plaintiff or failure to accommodate the Plaintiff's disabilities or disabling conditions.

9. Defendant GHI Public Entities 1-5 are fictious names for entities unknown at this time but will be substituted when known as associated, affiliated or liable hereunder for the reasons set forth below or inferred therefrom.

10. Defendant JKL Private Entities 1-5 are fictious names for entities unknown at this time but will be substituted when known as associated, affiliated or liable hereunder for the reasons set forth below or inferred therefrom.

11. All Defendants are sued in their official and individual capacity.

12. The acts and practices constituting violations alleged below have all occurred with in the County of Essex.

**STATEMENT OF FACTS**

1. Plaintiff was detained at the Essex County Correctional Facility from approximately 2019 through 2021.

2. On August 19, 2019 the Plaintiff was in Lockup in his cell at Defendant ECCF located at 254 Doremus Avenue, City of Newark, County of Essex, State of New Jersey when he suffered a permanent and disabling injury when he fell from the top bunk of the bed in his cell to which he had been assigned.

3. The assignment to the top bunk which resulted in him suffering a disabling and permanent injury occurred despite Defendants being aware of the fact that the Plaintiff suffered from a disabling medical condition which made this bed assignment dangerous for him and the fact that the Plaintiff had provided proof of this medical condition and need for an accommodation.

4. In fact, previous to this date, the Plaintiff had sought medical assistance at ECCF for a painful hernia condition. In the course of this medical assistance, Plaintiff was provided with written medical documentation indicating that he required a cell bunk that was at floor level.

5. Plaintiff provided Defendants with said documentation, including notification to Defendant Officer Lopez and other staff at

ECCF indicating that he required the reasonable accommodation of a floor level bunk in his cell as the result of a disability condition.

6. Despite being provided with medical information indicating that the Plaintiff required this accommodation, the Defendants failed and refused to provide the accommodation, including Defendants Officer Lopez, ABC Sherriff's Officers and DEF County Guards.

7. Further, this sleeping assignment, being assigned to a top bunk despite a medical condition, occurred as a result of an ongoing and continuous policy that existed at the ECCF of ignoring requests for floor level sleeping accommodations for medical conditions, which were systemically or deliberately ignored by Defendants, County of Essex, ECCF, Ortiz and Officer Lopez as well as fictitious Defendants, resulting in ongoing systemic violations of their Constitutional rights and rights under the New Jersey Law Against Discrimination.

8. Furthermore, Defendants, County of Essex, ECCF, Ortiz and Officer Lopez as well as fictitious Defendants demonstrated reckless and deliberate indifference to the Plaintiff's painful medical condition by:

- a. Failing to implement customs and policies regarding medical treatment provided to inmates which in effect authorize Defendant's agent and employees to disregard serious medical conditions requiring medical attention or medical accommodations.

- b. Failing to provide more or different training, supervision, investigation or discipline to prevent agents and employees from disregarding serious medical conditions requiring medical attention or medical need based accommodations, resulting in unreasonable and unjustified physical pain and suffering, emotional trauma and suffering under the Eighth and Fourteenth Amendments, and in violation of the New Jersey Law Against Discrimination N.J.S.A. 10:5-1 et seq., as Plaintiff suffered from a disability.
- c. Failing to implement policies and procedures to insure proper medical staff are made continuously available to ensure that prisoners, like Plaintiff, receive adequate care and accommodations for physical disabilities.

9. All Defendants are sued in their individual and official capacities.

## **COUNT I**

### **FAILURE TO PROVIDE ADEQUATE MEDICAL TREATMENT**

1. Plaintiff, Moises Echevarria re-alleges and re-avers each and every allegation in the above paragraphs.

2. Defendants Officer Lopez, ABC Sherriff's Officers and DEF County Guards, ECCF, ECDOC and County of Essex violated 42 USC

section 1983 by failing to provide adequate medical care in violation of the Plaintiff's rights under the Eighth and Fourteenth Amendments to the United States Constitution to not be subjected to cruel and unusual punishment.

3. At all times, the above defendants were acting in their capacity as correction officers for Defendant County and under color of law, showing deliberate indifference to the Plaintiff's need for medical treatment and accommodations, which were repeatedly communicated by the Plaintiff to the Defendants and which were based on medical need.

4. As a direct and proximate result of the Defendants failure to provide adequate medical treatment, care and accommodations, the Plaintiff suffered and will suffer serious and permanent injury, great pain and suffering, mental anguish, shame, humiliation and loss of capacity for the enjoyment of life.

5. The acts of the Defendants as set forth above were intentional, wanton, malicious, oppressive and systemic, thus entitling the Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff, Moises Echevarria, demands judgment against Defendants, COUNTY OF ESSEX; ESSEX COUNTY DEPARTMENT OF CORRECTIONS; ESSEX COUNTY ADULT CORRECTIONS CENTER; ESSEX COUNTY ADULT CORRECTION CENTER DIRECTOR AL ORTIZ; NEW JERSEY DEPARTMENT OF CORRECTIONS; SHERIFF'S OFFICER LOPEZ; ABC SHERIFF'S OFFICERS (fictitious defendants); DEF COUNTY

GUARDS (fictitious defendants); GHI PUBLIC ENTITIES 1-5 (fictitious defendants); JKL PRIVATE ENTITIES 1-5 (fictitious defendants) and JOHN/JANE DOES 1-10 (fictitious defendants), its agents, representatives and/or employees, for compensatory damages for pain and suffering, punitive damages, medical expenses, counsel fees, costs of suit and any and all other damages to which plaintiff is deemed entitled.

## **SECOND COUNT**

### **NEW JERSEY LAW AGAINST DISCRIMINATION**

1. Plaintiff repeats each and every allegation contained in the First Count of this Complaint as if more fully set forth herein.

2. At all times relevant hereto, Plaintiff suffered from a disability within the definition of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

3. At all times relevant hereto, the ECCF was a place of public accommodation within the definition of and subject to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

4. Defendants Officer Lopez, ABC Sherriff's Officers and DEF County Guards, and Ortiz acted in a manner which aided and abetted violations of the Law Against Discrimination by and at the ECCF, ECDOC and County of Essex, when if failed to provide reasonable medical accommodations to the Plaintiff, resulting in him suffering serious and permanent injuries, including but not exclusively a fall from the top bunk on August 19, 2019, which caused injuries, and

despite being notified previously of his need for reasonable medical accommodations concerning the bunk in his cell.

5. The failure to provide reasonable accommodations for the Plaintiff's disability was a frank violation of the New Jersey Law Against Discrimination N.J.S.A. 10:5-1 et seq.

6. As a direct and proximate result of the Defendants failure to provide reasonable accommodations, the Plaintiff suffered and will suffer serious and permanent injury, great pain and suffering, mental anguish, shame, humiliation and loss of capacity for the enjoyment of life.

7. The acts of the Defendants as set forth above were intentional, wanton, malicious, oppressive and systemic, thus entitling the Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff, Moises Echevarria, demands judgment against Defendants, COUNTY OF ESSEX; ESSEX COUNTY DEPARTMENT OF CORRECTIONS; ESSEX COUNTY ADULT CORRECTIONS CENTER; ESSEX COUNTY ADULT CORRECTION CENTER DIRECTOR AL ORTIZ; NEW JERSEY DEPARTMENT OF CORRECTIONS; SHERRIFF'S OFFICER LOPEZ; ABC SHERIFF'S OFFICERS (fictitious defendants); DEF COUNTY GUARDS (fictitious defendants); GHI PUBLIC ENTITIES 1-5 (fictitious defendants); JKL PRIVATE ENTITIES 1-5 (fictitious defendants) and JOHN/JANE DOES 1-10 (fictitious defendants), its agents, representatives and/or employees, for compensatory damages for pain and suffering, punitive damages, medical expenses, counsel fees,



costs of suit and any and all other damages to which plaintiff is deemed entitled.

**DEMAND FOR TRIAL BY JURY**

Plaintiffs hereby demand Trial by Jury in this matter.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, John H. Sanders, II, Esq., is hereby designated as Trial Counsel.

**CERTIFICATION PURSUANT TO RULE 4:5-1**

I certify that I am unaware of any other pending or contemplated lawsuit, arbitration or other proceeding concerning the subject matter in controversy. I certify that I am unaware of any non-party who should be joined in this action. I certify that all confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

SHEBELL & SHEBELL, LLC  
Counsel for Plaintiff

By: /s/ John H. Sanders, II  
JOHN H. SANDERS, II, ESQ.

Dated: August 17, 2021

## Civil Case Information Statement

**Case Details: ESSEX | Civil Part Docket# L-006295-21**

**Case Caption:** ECHEVARRIA MOISES VS COUNTY OF ESSEX

**Case Initiation Date:** 08/17/2021

**Attorney Name:** JOHN H SANDERS II

**Firm Name:** SHEBELL & SHEBELL, LLC

**Address:** 655 SHREWSBURY AVENUE SUITE 314  
SHREWSBURY NJ 07702

**Phone:** 7326631122

**Name of Party:** PLAINTIFF : Echevarria, Moises

**Name of Defendant's Primary Insurance Company**  
(if known): Unknown

**Case Type:** LAW AGAINST DISCRIMINATION (LAD) CASES

**Document Type:** Complaint with Jury Demand

**Jury Demand:** YES - 12 JURORS

**Is this a professional malpractice case?** NO

**Related cases pending:** NO

**If yes, list docket numbers:**

**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO

**Are sexual abuse claims alleged by: Moises Echevarria?** NO

**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE**

**CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION**

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** YES

**Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category: Putative Class Action?** NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

08/17/2021  
Dated

/s/ JOHN H SANDERS II  
Signed

ESSEX COUNTY - CIVIL DIVISION  
SUPERIOR COURT OF NJ  
465 MARTIN LUTHER KING JR BLVD  
NEWARK NJ 07102

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (973) 776-9300  
COURT HOURS 8:30 AM - 4:30 PM

DATE: AUGUST 17, 2021  
RE: ECHEVARRIA MOISES VS COUNTY OF ESSEX  
DOCKET: ESX L -006295 21

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS  
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON KEITH E. LYNOTT

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002  
AT: (973) 776-9300 EXT 56908.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A  
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.  
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE  
WITH R.4:5A-2.

ATTENTION:

ATT: JOHN H. SANDERS  
SHEBELL & SHEBELL, LLC  
655 SHREWSBURY AVENUE  
SUITE 314  
SHREWSBURY NJ 07702

ECOURTS